



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
999 Whipple Road
Tewksbury, MA 01876**

Anthony Ippolito, Chairman
Carolina Linder, Vice-Chair
Steve Deackoff, Clerk
Dennis Sheehan
Jonathan Parker

**Meeting Minutes
July 15, 2015**

The meeting was called to order by Anthony Ippolito, Chairman at 7:00 p.m. at the Pike House. In attendance were Carolina Linder, Jonathan Parker, Steve Deackoff, and Dennis Sheehan. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Approval of Meeting Minutes – June 17, 2015

Mr. Parker noted a correction in the motion of Section E of the June 17, 2015 meeting minutes.

MOTION: Mr. Parker made the motion to approve the June 17, 2015 meeting minutes as amended; seconded by Mr. Sheehan and the motion carried 5-0.

Mr. Ippolito noted that the Commission appointments will take place at the end of tonight's meeting.

Mr. Boyd informed those in attendance that the hearings for Memory Lane and Maple Street will be continued to August 12, 2015.

A) Notice of Intent, Jack Berube, 60 First Street, Map 81, Lots 167 & 198, DEP #305-989

Mr. Boyd noted that the applicant has requested to continue this matter to August 12, 2015 at 7:02 p.m.

MOTION: Mr. Ippolito made the motion to continue, Notice of Intent, Jack Berube, 60 First Street, Map 81, Lots 167 & 198, DEP #305-989 to August 12, 2015 at 7:02 p.m.; seconded by Mr. Deackoff and the motion carried 5-0.

B) Notice of Intent, Marc P. Ginsburg & Sons, Inc., Victor Drive Map 73, Lot 20, DEP #305-990

Present was Jim Hanley, Marc Ginsburg, Dick Cuoco, and Joel Kahn of Equity Alliance. Mr. Hanley explained that they are present to provide the Commission with an update on the local and State review and the adjustments that have been made as a result. Mr. Hanley explained that they have addressed all remaining technical local issues as well as the concerns expressed by DEP, Weston & Sampson and the Planning consultant, GCG. Mr. Hanley noted that, in addition, they filed the environmental notification form with MEPA today; which was a comment received from DEP during their review. Mr. Hanley noted that the responses that have been submitted to DEP have also been provided to the Commission.

Mr. Hanley reviewed some of the modifications that have been made; which include:

- A reconfiguration of the pump station serving buildings 2, 3 and 4 to decrease the walls and impact to the 25 foot buffer.
- Modification to the box culvert. Mr. Hanley explained that they had originally proposed a solid 4 side box culvert embedded in the ground. They have now removed the bottom and put the culvert on footings four feet below grade and will also be removing an existing culvert and restoring a stream bay through the bottom of the box culvert
- The wetland impacts have been reduced from approximately 211 square feet to 82 square feet by pulling the retaining wall along the access drive along buildings 1 and 2 closer to the roadway.
- Adjustments have been made to the replication area to address DEP comments. Mr. Hanley explained that, additionally, they had the replication areas at the location of the impacts and DEP has suggested to put them at the location of the box culvert instead. As a result, there is a replication area of approximately 609 square feet; which is offsetting 82 square feet of impacts.

Mr. Hanley explained that they reached out to DEP earlier today and confirmed that they have received the information and they have no further questions at time. It was noted that DEP will not be reviewing the matter again until an order of conditions is issued. Mr. Cuoco explained that they want to ensure that there are no more local issues to be addressed.

Mr. Boyd asked if there is going to be an expansion of the parking lot for the school and noted that his only issue would be that it is a separate parcel. Mr. Ginsburg explained that they would re-file for that and would also be required to go before the Planning Board. Mr. Boyd suggested a condition be put in place, in addition to the conservation restriction, to verify the vernal pool in the spring. Mr. Boyd noted that his only other concern is that Mr. Hardiman was concerned with the location of the silt fence and reiterated that there will not be any disturbance during construction. Mr. Ginsburg

explained that they will ensure the proper erosion controls are in place prior to construction beginning. Mr. Boyd suggested a possible condition of him working with the applicant to ensure the area is properly re-vegetated and noted that the Commission previously agreed on a conservation restriction for the 25 foot buffer.

Ms. Linder requested the silt fence be brought in 10 feet as it is right on the 25 foot buffer. Mr. Ginsburg noted that there will not be any work within the no disturb zone. Ms. Linder referenced Item 4 and noted that the proposed bike trail should be designed to not be in the no disturb zone. Mr. Hanley explained that they have redesigned the plans and pushed the trail outside of the 25 foot buffer; these plans have been resubmitted.

Mr. Deackoff asked if DEP's comments have been addressed and how they were addressed and Mr. Hanley confirmed their responses were provided to DEP on June 26, 2015 and noted that a copy has also been provided to the Commission members.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

Ms. Linder suggested continuing this matter until after MEPA has completed its review as it could have impacts on the design and DEP's review. Mr. Ginsburg explained that DEP has indicated that the project is fine and noted that he would rather come back to amend if necessary as DEP will not be reviewing the matter again until an Order of Conditions is issued.

Mr. Deackoff suggested the town's consultant review all of the paperwork that has been submitted over the last month and noted that not all comments have been addressed. Mr. Hanley explained that every item that has been raised has been addressed. Mr. Deackoff noted that he also disagrees with some of the responses that have been provided and explained that the responses have been submitted, but a review of the responses has not been done. Ms. Linder noted that she would also like to see if there are any comments back on the responses that have been submitted. Mr. Ginsburg noted that he would not be opposed to making this a condition. Mr. Hanley explained that all of the comments they received have been addressed.

Mr. Kahn requested the town consultant expedite his review to be productive at the next meeting.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, Marc P. Ginsburg & Sons, Inc., Victor Drive Map 73, Lot 20, DEP #305-990 to August 12, 2015 at 7:04 p.m., Weston & Sampson shall review the matter; seconded by Ms. Linder and the motion carried 5-0.

C) Request for Certificate of Compliance, Gentle Manor, 34 French Street, DEP #305-831

Mr. Boyd explained that the applicant was to contact him to do a site visit of the collapsed culvert and he has not. Mr. Boyd suggested continuing this matter until August 12, 2015.

MOTION: Mr. Deackoff made the motion to continue Request for Certificate of Compliance, Gentle Manor, 34 French Street, DEP #305-831 to August 12, 2015 at 7:04 p.m.; seconded by Ms. Linder and the motion carried 5-0.

D) Request for Certificate of Compliance, Joseph Menchi & Arlene Menchi, 54 French Street, DEP #305-981

Mr. Boyd explained that under the original notice of intent, 34 & 54 French Street was one parcel. As a part of the order of conditions, the property went before the Planning Board for a subdivision. Mr. Boyd explained that 54 French Street never had work done on the property and they are requesting a partial Certificate of Compliance as they do not want to be responsible for the culvert and no work was done. Mr. Boyd recommended issuing a certificate of compliance for that portion as no work was ever done.

Discussion took place on whether the correct address for the partial certificate is 34 French Street or 54 French Street. It was determined that the correct parcel is for Joseph and Arlene Menchi, 54 French Street.

MOTION: Mr. Deackoff made the motion to issue a partial Certificate of Compliance, Joseph Menchi & Arlene Menchi, 54 French Street, DEP #305, Map 9, Lot 14, recorded with the Middlesex North Registry of Deeds at Book 25887, Page 243 and shown on Plan dated March 25, 2008 and recorded with the Middlesex North Registry of Deeds at Plan Book 226, Plan 146 on June 18, 2008; seconded by Ms. Linder and the motion carried 5-0.

E) Amendment Request, Marc Ginsburg, 1438 & 1470 Main Street, DEP #305-980

Present was Jim Hanley of Civil Design Consultants, Marc Ginsburg, and Dick Cuoco.

Mr. Hanley explained that they were before the Commission last month and DEP had intervened on the order of conditions that were issued in February, 2015. After four months of going back and forth with DEP, they were able to get their request for information and provide a response letter and modify the plan to address the comments. Mr. Hanley noted that the most significant comment was the box culvert as they had an embedded, four sided culvert; which has been changed to a three sided box culvert that sits on footings. Mr. Hanley explained that on June 8, 2015, DEP issued a superseding

order of conditions and they were advised to come before the Commission and request the local order be revised to be consistent with DEP's superseding Order.

Mr. Boyd recommended that he work with DEP to amend the order of conditions to be in line with DEP's superseding order of conditions.

Mr. Ippolito opened the public hearing portion and no one came forward to comment.

MOTION: Mr. Ippolito made the motion to close the public hearing portion; seconded by Mr. Parker and the motion carried 5-0.

MOTION: Ms. Linder made the motion to Modify/Amend, Marc Ginsburg, 1438 & 1470 Main Street, DEP #305-980, Mr. Boyd will work with DEP on the amendment to ensure the local order is in line with DEP's superseding Order; seconded by Mr. Parker and the motion carried 5-0.

F) Notice of Intent, Peter & Erin Asselin, 41 Dairy Farm Way, Map 4, Lot 99, DEP

Present was Jeff Hannaford from NDF on behalf of the applicant and Charlie Desjardins with Desjardins Construction. Mr. Hannaford explained that the applicant is proposing to construct a pool house adjacent to the existing pool and pool deck. The existing home was constructed in 2000. In 2006, the pool, pool deck, and accessories were constructed along with the fence around the pool area. In 2007, sewer was installed through an easement to the rear of the property shown on the plan. Mr. Hannaford explained that this year the homeowners wanted to construct a pool house and contacted Desjardins Construction who in turn contacted NDF as it is a buffer zone project. Mr. Hannaford explained that when they delineated the wetlands they noticed that there was quite a difference in the recent delineation compared to the original delineation that was done in 2000. There is an approximate 50 foot difference through the sewer easement. Mr. Hannaford explained that it appears to them that the pool met the setbacks when it was constructed and after the sewer construction was done, it appears that the edge of wetlands has encroached closer to the property and they feel this has created the hardship. The pool house will be located within the fenced in pool area and they are proposing a retaining wall along the down gradient side and erosion controls just inside the fence area. Mr. Hannaford noted that there will also be utility work to the pool house: water, sewer and electricity and explained that they feel that they qualify for a waiver based on a hardship that was created at no control of the property owner. They do not feel that there can be a redesign due to the location of the utilities and existing pool deck.

Mr. Boyd asked if the pool house can be relocated or redesigned. Mr. Hannaford explained that the applicant would be willing to reduce the roof overhang. Mr. Boyd noted that he does not feel strongly that this project qualifies for a waiver and suggested a redesign be done.

Mr. Deackoff suggested moving the pool house to the left hand side of the pool and requesting a variance from the Zoning Board of Appeals. Mr. Hannaford explained that

he does not feel that going before the ZBA would be beneficial as it is trading one hardship for another and the town brought in the sewer and has the easement and they feel that this is what created the hardship. Mr. Deackoff noted that by relocating the pool house to the new location, the underground utilities distance would be reduced in half.

Ms. Linder explained that wetlands can change over time and part of the waiver process is to provide alternatives and she feels that the option Mr. Deackoff has provided would be better. Mr. Hannaford asked why they should have to change the location. Mr. Deackoff explained that changing the locations would still allow for the 10 foot setback to be maintained. Mr. Hannaford explained that the applicant would then be forced to live with a situation that they do not want. Mr. Deackoff showed the location he is proposing and explained that this location would also reduce the impact.

Mr. Sheehan asked if there is a reason why the utilities enter through the rear of the building rather than the side as this would also reduce the impact and Mr. Hannaford confirmed at the location of the utilities can be changed.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 5-0.

MOTION: Mr. Parker made the motion to approve Notice of Intent, Peter & Erin Asselin, 41 Dairy Farm Way, Map 4, Lot 99, DEP #, the utilities for the proposed pool house shall come in to the right hand side, mowing of the buffer shall stop, updated plans shall be provided to Mr. Boyd; seconded by Mr. Sheehan and the motion carried 5-0.

G) Abbreviated Notice of Resource Area Delineation, Maple Estates Trust, 108/118 Maple Street & Memory Lane, Map 88, Lots 35, 25, & 36, Map 89, Lots 38, 36, 37 & 39, DEP #305-992

Mr. Boyd noted that this matter will be continued to August 12, 2015.

MOTION: Mr. Parker made the motion to continue Abbreviated Notice of Resource Area Delineation, Maple Estates Trust, 108/118 Maple Street & Memory Lane, Map 88, Lots 35, 25, & 36, Map 89, Lots 38, 36, 37 & 39, DEP #305-992 to August 12, 2015 at 7:06 p.m.; seconded by Mr. Sheehan and the motion carried 5-0.

H) Request for Determination of Applicability, Anthony D'Angelo, 15 Dirlam Circle, Map 82, Lot 218

Present was Anthony D'Angelo of 15 Dirlam Circle. Mr. D'Angelo explained that initially he applied for a notice of intent to remove some trees and he was also looking to loom and hydro seed and extend the deck. Mr. D'Angelo noted that he has installed silt fence to separate the lawn from the wetlands and that there is also an easement on his property.

Mr. Boyd explained that the one area he feels an additional buffer would be beneficial is where the storm water system is, although not wetlands, it is still jurisdictional under the town's bylaws. Mr. Boyd suggested moving the proposed work 10 feet away on the side and then building the yard off of that as well as providing more protection to the resource areas.

Ms. Linder suggested situating the shed as far away from the stream as possible while still maintaining the setbacks; 10 feet for erosion controls and then 10 feet for the shed.

Mr. Deackoff asked what the line shown on the plan and Mr. Boyd explained that this was the old silt fence.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Ms. Linder made the motion to close the public hearing portion; seconded by Mr. Sheehan and the motion carried 5-0.

MOTION: Ms. Linder made the motion for a negative determination, Anthony D'Angelo, 15 Dirlam Circle, Map 82, Lot 218, the erosion control shall be moved 10 feet up, a planting plan shall be determined with Mr. Boyd, and the shed is to be 10 feet off the plantings; seconded by Mr. Parker and the motion carried 5-0.

I) Request for Determination of Applicability, Thomas Wolf, 353 Brown Street, Map 68, Lot 17

Present was Thomas and Patricia Wolf. Mr. Wolf explained they would like to connect to town sewer and he has complied with all of Mr. Boyd's requests. Mr. Wolf explained that they had an addition put on approximately 18 years ago on the right hand side of the home. The sewer comes from around the back and could not be brought through the front as it would require the plumbing to be moved around. Mr. Wolf noted that Billy Roper will be doing the work.

None of the members expressed concerns with the project.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Parker made the motion to close the public hearing portion; seconded by Mr. Sheehan and the motion carried 5-0.

MOTION: Ms. Linder made the motion for a negative determination, Thomas Wolf, 353 Brown Street, Map 68, Lot 17; seconded by Mr. Parker and the motion carried 5-0.

J) Abbreviated Notice of Resource Area Delineation, James Wu, 1201 Main Street, DEP #305-978

Mr. Boyd noted that the applicant has requested to continue this matter to August 12, 2015.

MOTION: Mr. made the motion to continue Abbreviated Notice of Resource Area Delineation, James Wu, 1201 Main Street, DEP #305-978 to August 12, 2015 at 7:08 p.m.; seconded by Mr. and the motion carried 5-0.

Appointments

Mr. Ippolito opened the nominations for appointments.

Mr. Deackoff offered to be Chair.

Mr. Parker noted that he is also not opposed to being the Chair and feels that he would like to improve the meeting procedure and communications between the members. Mr. Deackoff noted that he would be in support of that goal for the Commission.

Ms. Linder noted that she also would like to be Chair.

Mr. Ippolito noted that he would like to see some of the meetings move along faster as many times the same discussion occurs

Discussion took place on Robert's Rules and having a training meeting.

MOTION: Mr. Deackoff made the motion to appoint Jonathan Parker as Chairman of the Conservation Commission; seconded by Mr. Sheehan and the motion carried 4-1 by a roll call vote. Ms. Linder did not take part in this vote.

MOTION: Mr. Parker made the motion to appoint Carolina Linder as Vice Chair of the Conservation Commission; seconded by Mr. Sheehan and the motion carried 5-0.

MOTION: **Mr. Parker made the motion to appoint Steve Deackoff as Clerk of the Conservation Commission; seconded by Ms. Linder and the motion carried 5-0.**

Mr. Boyd thanked Mr. Ippolito for his service as Chairman.

New Business

Discussion took place on Weston & Sampson no longer being the town's Wetland Consultant. Bill Manuell will be reviewing all future projects.

Old Business

There was no old business.

Adjourn.

MOTION: **Mr. Deackoff made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 5-0.**

Approved: 8/12/15

List of documents for 7/15/15 Agenda
Documents can be located at the Community Development Office

Approval of Meeting Minutes- June 17, 2015
Appointments

- 7:02 P.M Notice of Intent, Jack Berube, 60 First Street, Maps 81 Lots 167 & 198, DEP # 305-989
- *Site Plan submitted by Cyprus Design Inc. dated March 27, 2015*
 - *Notice of Intent Form 3 submitted by Jack Berube*
 - *Stormwater Forms dated May 29, 2015*
 - *Replication Plan from Basbanes Wetland Consulting dated May 4, 2015*
- 7:03 P.M Notice of Intent, Marc P Ginsburg & Sons, INC., Victor Drive, Map 73 Lot 20, DEP #305-990
- *Review letter from Mel Higgins dated March 18, 2015*
 - *Notice of Intent submitted by Norse Environmental dated March 2015*
 - *Proposed Riverfront Impact Assessment submitted by Jim Hanley dated March 4, 2015*
 - *Existing Riverfront assessment submitted by Jim Hanley dated March 4, 2015*
 - *Site development plans dated March 4, 2015 submitted by Civil Design Consultants*
 - *Wildlife Habitat Evaluation submitted by Norse Environmental dated June 3, 2015*
 - *Review letter from Weston & Sampson signed by Mel Higgins dated June 1, 2015*
 - *Abridged Site Development Plans submitted by James Hanley dated May 29, 2015*
 - *Response letter from Jim Hanley dated May 27, 2015*
 - *Review letter from Town Engineer Kevin Hardiman dated May 14, 2015*
- 7:06 P.M Request for Certificate of Compliance, Gentle Manor, 54 French Street, DEP 305-831
- *Certificate of Compliance Request Form 8A*
 - *Letter from Matt Marro dated July 5, 2015*

- 7:08 P.M Request for Certificate of Compliance, Joseph Menchi & Arlene Menchi, 34 French Street, DEP # 305-831
- *Certificate of Compliance Request Form 8A*
- 7:11 P.M Amendment Request, Marc Ginsburg, 1438 & 1470 Main Street, DEP # 305-980
- *Modification Request letter from Jim Hanley dated July 29, 2015*
- 7:11 P.M Notice of Intent, Peter & Erin Asselin, 41 Dairy Farm Way, Map 4 Lot 99, DEP #
- *WPA Form 3*
 - *Notice of Intent Plan dated 7/2/15 stamped by Michael Bovio*
- 7:13 P.M Abbreviated Notice of Resource Area Delineation, Maple Estates Trust, 108/118 Maple Street & Memory Lane, Map 88 Lots 35, 25, & 36, Map 89 Lots 38, 36, 37 & 39, DEP # 305-992
- *ANRAD Package dated*
 - *Letter from Bill Manuel dated*
- 7:15 P.M Request for Determination of Applicability, Anthony D'Angelo, 15 Dirlam Circle, Map 82 Lot 218
- *WPA Form 1*
- 7:17 P.M Request for Determination of Applicability, Thomas Wolf, 353 Brown Street, Map 68 Lot 17
- *WPA Form 1*
- 7:13 P.M Abbreviated Notice of Resource Area Delineation, James Wu, 1201 Main Street, DEP # 305-978 (Continued)
- *Review Letter from Mel Higgins dated Dec 8., 2014*
 - *ANRAD application dated Nov. 21, 2014*
 - *Existing Conditions Plan submitted by Otte, Dwyer, with markups by Weston & Sampson*
 - *Review letter from Mel Higgins dated Dec. 15, 2015*
 - *Mel Higgins Amended Existing Conditions Plan*